

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHRISTOPHER SESSOMS,

Plaintiff,

v.

THE CITY OF NEW YORK; THE POLICE
DEPARTMENT OF THE CITY OF NEW
YORK; MICHAEL BLOOMBERG, MAYOR
OF THE CITY OF NEW YORK; RAYMOND
W. KELLY, COMMISSIONER OF THE
POLICE DEPARTMENT OF THE CITY OF
NEW YORK; POLICE OFFICERS JOHN
DOE #1 AND JOHN DOE #2; POLICE
OFFICER SHIEED HANIFF; and POLICE
OFFICER DANA LADSON,

Defendants.
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MEMORANDUM & ORDER
11-CV-415 (MKB) (JMA)

MARGO K. BRODIE, United States District Judge:

Plaintiff Christopher Sessoms filed the above-captioned action against several Defendants on January 27, 2011, claiming *inter alia* that Defendants violated his constitutional rights by subjecting him to excessive force and illegally seizing his personal property during the course of his September 30, 2009 arrest. (Complaint (Docket Entry # 1).)

On May 1, 2012, Plaintiff's Counsel wrote a letter to Magistrate Judge Azrack, requesting leave to withdraw as counsel, because he had been unable to locate or communicate with Plaintiff despite several attempts during the previous six months. (Motion to Withdraw as Counsel (Docket Entry # 21).) On May 10, 2012, Magistrate Judge Azrack issued a Report and Recommendation ("R&R"), recommending that this Court grant Counsel's motion to withdraw, and that the action be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

(R&R.) Magistrate Judge Azrack further ordered Plaintiff's Counsel to serve a copy of the R&R on Plaintiff at his last known address, and ordered that any objections be filed by Plaintiff within fourteen (14) days of the receipt of the R&R. *Id.* On May 17, 2012, Plaintiff's Counsel submitted an affidavit from his office assistant in which she stated that on May 14, 2012, she sent a copy of the R&R to Plaintiff via the United States Postal Service. (Affidavit of Service (Docket Entry # 26).) This Court has received no objection to the R&R.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit "may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object." *Sepe v. New York State Ins. Fund*, No. 10-CV-4602, 2012 WL 1071811, at *1 (2d Cir. Apr. 2, 2012) (citing *Thomas v. Arn*, 474 U.S. 140, 155 (1985) (holding that court of appeals may adopt such waiver rule).

Having received no objection, the R&R is adopted in its entirety. Counsel's motion to withdraw is granted, and the case is dismissed with prejudice for failure to prosecute. *See Martens v. Thomann*, 273 F.3d 159, 179 (2d Cir. 2001) (a district court may dismiss for failure to prosecute *sua sponte*). The Clerk of the Court is directed to enter judgment dismissing this

action and closing this case. The Clerk of the Court is also directed to serve a copy of this Memorandum and Order on Plaintiff and to note the service on the docket.

SO ORDERED.

Dated: June 11, 2012
Brooklyn, NY

s/ MKB

MARGO K. BRODIE
United States District Judge